

CLOSED, INTERPRETER

**U.S. District Court  
Northern District of Georgia (Atlanta)  
CRIMINAL DOCKET FOR CASE #: 1:09-mj-00038-AJB All Defendants  
Internal Use Only**

Case title: USA v. Chen

Date Filed: 01/12/2009

Other court case number: 3:02CR233-MU Western District  
of North Carolina, Charlotte Div

Date Terminated: 01/15/2009

Assigned to: Magistrate Judge Alan J.  
Baverman**Defendant (1)****Shanzeng Chen***TERMINATED: 01/15/2009*represented by **Jimmy Hardy**

Federal Defender Program

100 Peachtree Street, N.W.

The Equitable Building, Suite 1700

Atlanta, GA 30303

404-688-7530

Fax: 404-688-0768

Email: [Jimmy\\_Hardy@FD.Org](mailto:Jimmy_Hardy@FD.Org)**LEAD ATTORNEY****ATTORNEY TO BE NOTICED***Designation: Public Defender or**Community Defender Appointment*ATTEST: A TRUE COPY  
CERTIFIED THIS

JAN 16 2009

James N. Hatten, Clerk

By:   
Deputy Clerk**Pending Counts**

None

**Disposition****Highest Offense Level (Opening)**

None

**Terminated Counts**

None

**Disposition****Highest Offense Level (Terminated)**

None








**Complaints**






18:371 - CONSPIRACY TO  
DEFRAUD THE UNITED STATES

**Disposition****Plaintiff**

USA

represented by **Mary Christine Roemer**  
Office of United States Attorney  
75 Spring Street, S.W.  
600 United States Courthouse  
Atlanta, GA 30303  
404-581-6000  
Email: mary.roemer@usdoj.gov  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

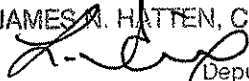
<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
01/12/2009		Arrest (Rule 40) of Shanzeng Chen. (bse) (Entered: 01/16/2009)
01/12/2009	 <u>1</u>	ORDER APPOINTING FEDERAL PUBLIC DEFENDER Jimmy Hardy as to Shanzeng Chen. Signed by Magistrate Judge Alan J. Baverman on 1/12/09. (bse) (Entered: 01/16/2009)
01/12/2009	 <u>2</u>	Minute Entry for proceedings held before Magistrate Judge Alan J. Baverman: Initial Appearance in Rule 5(c)(3) Proceedings as to Shanzeng Chen held on 1/12/2009. Identity hearing to be held on 1/15/09 at 10:00AM. Defendant is named defendant in indictment; held for removal to other district. Government's Motion for Detention filed. (Note: Indictment from WDNC is filed under Seal). (Tape #FTR). Interpreted by Sylvia Sham.(bse) (Entered: 01/16/2009)
01/12/2009	 <u>3</u>	GOVERNMENT'S MOTION for Detention by USA as to Shanzeng Chen. (bse) (Entered: 01/16/2009)
01/12/2009	 <u>4</u>	Order of Temporary Detention Pending Hearing pursuant to Bail Reform Act by Judge Alan J. Baverman as to Shanzeng Chen. Detention Hearing set for 1/15/2009 at 10:00 AM in ATLA Courtroom 1875 before Magistrate Judge Alan J. Baverman. (bse) (Entered: 01/16/2009)
01/12/2009		ORAL MOTION to Dismiss Indictment for an improper warrant by Shanzeng Chen. (bse) (Entered: 01/16/2009)
01/12/2009	 <u>5</u>	Minute Entry for proceedings held before Magistrate Judge Alan J. Baverman: Detention Hearing as to Shanzeng Chen. Defendant waives identity hearing only. Waiver filed. <u>3</u> Government's Motion for Detention GRANTED. Defendant's Oral Motion to Dismiss Indictment for an improper warrant is DENIED. Commitment issued. (Tape #FTR). Interpreted by Sylvia Sham.

		(bse) (Entered: 01/16/2009)
01/15/2009	 <u>6</u>	WAIVER of Rule 40 Hearings by Shanzeng Chen. (bse) (Entered: 01/16/2009)
01/15/2009	 <u>7</u>	ORDER OF DETENTION Pending Trial by Judge Alan J. Baverman as to Shanzeng Chen. (bse) (Entered: 01/16/2009)
01/15/2009	 <u>8</u>	COMMITMENT TO ANOTHER DISTRICT as to Shanzeng Chen. Defendant committed to Western District of North Carolina. Signed by Magistrate Judge Alan J. Baverman on 1/15/09. (c: served by deputy clerk). (bse) (Entered: 01/16/2009)
01/15/2009	 <u>9</u>	Magistrate Case Closed. Defendant Shanzeng Chen terminated. (bse) Modified on 1/16/2009. PDF incorrectly attached to this entry. (bse). (Entered: 01/16/2009)
01/16/2009	 <u>10</u>	Transmittal of Rule 5(c)(3) Documents as to Shanzeng Chen, sent to Western District of North Carolina via certified mail, rrr. Original case file with certified copy of Commitment Order and docket sheet. (bse) (Entered: 01/16/2009)

ORIGINAL

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

JAN 12 2009

JAMES M. HATTEN, Clerk  
By:  Deputy Clerk

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CASE NO. 1:09-MJ-38-AJB

SHANZENG CHEN,

Defendant.

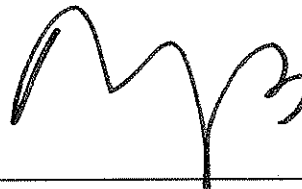
**ORDER APPOINTING COUNSEL**

JIMMY HARDY

The above-named defendant has testified under oath or has filed with the Court an affidavit of financial status and hereby satisfied this Court that he or she is financially unable to employ counsel.

Accordingly, the **FEDERAL DEFENDER PROGRAM, INC.**, is hereby appointed to represent this defendant in the above-captioned case unless relieved by an Order of this Court or by Order of the Court of Appeals.

Dated at Atlanta, Georgia this 12th day of January, 2009.



UNITED STATES MAGISTRATE JUDGE

DATE: 1/12/09 @ 5:57 pm

TAPE: FTR @ 24 Mins.

ORIGINAL

TIME IN COURT: \_\_\_\_\_

MAGISTRATE JUDGE ALAN J. BAVERMAN

COURTROOM DEPUTY CLERK: Lisa Enix

CASE NUMBER: 1:09-MJ-38-AJB

DEFENDANT'S NAME: Shanzeng Chen

AUSA: Mary Roemer

DEFENDANT'S ATTY: Jimmy Hardy

USPO / PTR: \_\_\_\_\_

( ) Retained ( ) CJA (X) FDP ( ) Waived

ARREST DATE \_\_\_\_\_

☒ Initial appearance hearing held.☒ Defendant informed of rights.☒ Interpreter sworn: Sylvia Sham - Sworn**COUNSEL**☒ ORDER appointing Federal Defender as counsel for defendant.

ORDER appointing \_\_\_\_\_ as counsel for defendant.

ORDER: defendant to pay attorney's fees as follows: \_\_\_\_\_

**IDENTITY / PRELIMINARY HEARING**

Defendant WAIVES identity hearing only.

\_\_\_\_\_ WAIVER FILED

☒ Identity hearing to be held on 1/15/09 at 10:00 am. Def is named def. in indictment/complaint; held for removal to other district.

Defendant WAIVES preliminary hearing in this district only.

\_\_\_\_\_ WAIVER FILED

Preliminary hearing held.. \_\_\_\_\_ Probable cause found; def. held to District Court for removal to other district

Removal hearing set/reset/cont to \_\_\_\_\_ @ \_\_\_\_\_.

Commitment issued.

**BOND/PRETRIAL DETENTION HEARING**☒ Government motion for detention filed. ( ) Verbal Motion 1/15/09 @ 10:00 AM

Pretrial hearing set for \_\_\_\_\_ @ \_\_\_\_\_ ( ) In charging district.)

Bond/Pretrial detention hearing held.

☒ Government motion for detention ( ) GRANTED ( ) DENIED ( ) WAIVED in this district

Pretrial detention ordered. \_\_\_\_\_ Written order to follow.

BOND set at \$ \_\_\_\_\_ NON-SURETY \_\_\_\_\_ SURETY

\_\_\_\_\_ cash \_\_\_\_\_ property \_\_\_\_\_ Signature

SPECIAL CONDITIONS: \_\_\_\_\_

Bond filed. Defendant released.

Bond not executed. Defendant to remain in Marshal's custody.

Motion ( ) verbal) to reduce/revoke bond filed.

Motion to reduce/revoke bond \_\_\_\_\_ GRANTED \_\_\_\_\_ DENIED

ORIGINAL

JAN 12 2009

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

JAMES N. HATTEN, Clerk  
By: *[Signature]* Deputy Clerk

UNITED STATES OF AMERICA :  
v. : CRIMINAL ACTION  
SHANZENG CHEN : NO. 1:09-MJ- ~~58~~ **ASB**

GOVERNMENT'S MOTION FOR DETENTION

Comes now the United States of America, by and through its counsel, David E. Nahmias, United States Attorney, and MARY C. ROEMER, Assistant United States Attorney for the Northern District of Georgia, and pursuant to 18 U.S.C. §§ 3142(e) and (f) moves for detention for the above-captioned defendant.

1. Eligibility of Case.

This case is eligible for a detention order because this case involves (check all that apply):

- ☐ Crime of violence (18 U.S.C. § 3156)
- ☐ Maximum sentence of life imprisonment or death
- ☐ 10 + year drug offense
- ☐ Felony, with two prior convictions in the above categories
- ☒ Serious risk the defendant will flee
- ☐ Serious risk of obstruction of justice

2. Reason for Detention.

The Court should detain defendant because there are no conditions of release that will reasonably assure (check one or both):

  X   Defendant's appearance as required

  X   Safety of any other person and the community

3. Rebuttable Presumption.

The United States (will, will not) invoke the rebuttable presumption against defendant under § 3142(e). (If yes) The presumption applies because (check one or more):

       There is probable cause to believe defendant committed 10 + year drug offense.

       There is probable cause to believe defendant committed an offense in which a firearm was used, carried, or possessed under § 924(c).

       Defendant has been charged with a federal offense that is described in § 3142(f)(1), and

(1) defendant has been convicted of a Federal offense that is described in § (f)(1) of this section, or of a State or Local offense that would be an offense described in § (f)(1) of this section if a circumstance giving rise to Federal jurisdiction had existed;

(2) the offense described in paragraph (1) was committed while defendant was on release pending trial for a Federal, State or local offense; and

(3) A period of not more than five years has elapsed since the date of conviction, or the release of the person from imprisonment, for the offense described in paragraph (1), whichever is later.

\_\_\_\_\_ [Circle one] This is an offense involving a minor under 18 U.S.C. § 1201, or an offense under 18 U.S.C. § 1591, 2241, 2242, 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1), 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423 or 2425.



4. Time for Detention Hearing.

The United States requests the Court conduct the detention hearing:

  X   At the initial appearance.

       After continuance of        day (not more than 3).

The Government requests leave of Court to file a supplemental motion with additional grounds or presumption for detention should this be necessary.

Dated: this 12th day of January, 2009.

Respectfully submitted,

DAVID E. NAHMIAS  
UNITED STATES ATTORNEY

A handwritten signature in black ink, appearing to read 'Mary C. Roemer', is written over the typed name.


MARY C. ROEMER  
ASSISTANT U.S. ATTORNEY  
600 U.S. Courthouse  
75 Spring Street, SW  
Atlanta, Georgia 30303  
(404) 581-6000  
Ga. Bar No. 611790

CERTIFICATE OF SERVICE

This is to certify that I have this day served upon the person listed below a copy of the foregoing document by hand delivery:

Counsel for Defendant

This 12th day of January, 2009.



MARY C. ROEMER  
ASSISTANT UNITED STATES ATTORNEY

## ORIGINAL UNITED STATES DISTRICT COURT

NORTHERN

District of

GEORGIA

JAN 12 2009

JAMES M. HATTEN, Clerk

By: 

Deputy Clerk

UNITED STATES OF AMERICA

V.

ORDER OF TEMPORARY DETENTION  
PENDING HEARING PURSUANT TO  
BAIL REFORM ACT

SHANZENG CHEN

Defendant

Case

1:09-MJ-38-AJB

Upon motion of the U. S. GOVERNMENT, it is ORDERED that a

detention hearing is set

1/15/09

Date

\*

at

10:00 am

Time

before

ALAN J. BAVERMAN

Name of Judicial Officer

Courtroom 1875, U.S. Courthouse 75 Spring Street, S.W. Atlanta, GA 30303

Location of Judicial Officer

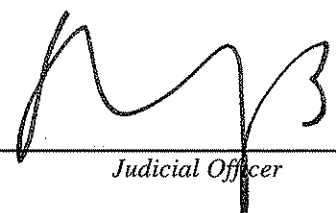
Pending this hearing, the defendant shall be held in custody by (the United States marshal)

) and produced for the

Other Custodial Official

Date:

1/12/2009

  
Judicial Officer

\*If not held immediately upon defendant's first appearance, the hearing may be continued for up to three days upon motion of the Government, or up to five days upon motion of the defendant. 18 U.S.C. § 3142(f)(2).

A hearing is required whenever the conditions set forth in 18 U.S.C. § 3142(f) are present. Subsection (1) sets forth the grounds that may be asserted only by the attorney for the Government; subsection (2) states that a hearing is mandated upon the motion of the attorney for the Government or upon the judicial officer's own motion if there is a serious risk that the defendant (a) will flee or (b) will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate a prospective witness or juror.

DATE: 1/15/09 @ 10:47 am

TIME IN COURT: 23 Mins.

ORIGINAL

MAGISTRATE JUDGE ALAN J. BAVERMAN

COURTROOM DEPUTY CLERK: Lisa Enix

CASE NUMBER: 1:09-MJ-38-AJB

DEFENDANT'S NAME: Shanzeng Chen

AUSA: Mary Roemer

DEFENDANT'S ATTY: Jimmy Hardy

USPO / PTR:

( ) Retained ( ) CJA (X) FDP ( ) Waived

ARREST DATE

Initial appearance hearing held.

Defendant informed of rights.

X Interpreter sworn: Sylvia Sham

COUNSEL

ORDER appointing Federal Defender as counsel for defendant.

ORDER appointing as counsel for defendant.

ORDER: defendant to pay attorney's fees as follows:

IDENTITY / PRELIMINARY HEARING

X Defendant WAIVES identity hearing only.

X WAIVER FILED

Identity hearing HELD. Def is named def. in indictment/complaint; held for removal to other district.

Defendant WAIVES preliminary hearing in this district only.

WAIVER FILED

Preliminary hearing held.. Probable cause found; def. held to District Court for removal to other district

Removal hearing set/reset/cont to @

X Commitment issued.

BOND/PRETRIAL DETENTION HEARING

Government motion for detention filed. ( ) Verbal Motion

Pretrial hearing set for @ ( ) In charging district.)

X Bond/Pretrial detention hearing held.

X Government motion for detention (X) GRANTED ( ) DENIED ( ) WAIVED in this district

X Pretrial detention ordered. X Written order to follow.

BOND set at \$ NON-SURETY SURETY

cash property Signature

SPECIAL CONDITIONS:

Bond filed. Defendant released.

Bond not executed. Defendant to remain in Marshal's custody.

Motion ( ) verbal to reduce/revoke bond filed.

Motion to reduce/revoke bond GRANTED DENIED

## MINUTES:

Defendant's oral motion to dismiss the indictment for an improper warrant. The Court DENIED motion to dismiss.

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## EXHIBITS:

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Original Exhibits      \_\_\_\_\_ RETAINED by the Court      \_\_\_\_\_ RETURNED to counsel

## UNITED STATES DISTRICT COURT

JAN 15 2009

ORIGINAL

NORTHERN

DISTRICT OF

GEORGIA

By:

JAMES M. HATTEN, Clerk

Deputy Clerk

UNITED STATES OF AMERICA

V.

**WAIVER OF RULE 40 HEARINGS**  
(Excluding Probation Cases)

SHANZENG CHEN

CASE

1:09-MJ-38-AJB

I, SHANZENG CHEN, understand that in the  
WESTERN District of NORTH CAROLINA, charges are pending


alleging violation of 18:1028 Fraudulent Immigration Documents and that I have been  
 arrested in this District and taken before a United States Magistrate Judge who informed me of the charge and of my right  
 to:

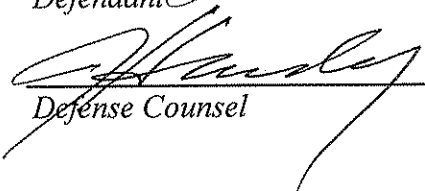
(1) retain counsel or request the assignment of counsel if I am unable to retain counsel, (2) request transfer of the  
 proceedings to this district pursuant to Rule 20, Fed. R. Crim. P., in order to plead guilty, (3) an identity hearing to  
 determine if I am the person named in the charge, and (4) a preliminary examination (unless an indictment has been  
 returned or an information filed) to determine whether there is probable cause to believe an offense has been committed  
 by me, the hearing to be held either in this district or the district of prosecution.

I HEREBY WAIVE (GIVE UP) MY RIGHT TO A(N):

☒ identity hearing☐ preliminary examination☒ identity hearing and have been informed I have no right to a preliminary examination☐ identity hearing but request a preliminary examination be held in the prosecuting district

and, therefore, consent to the issuance of an order requiring my appearance in the prosecuting district where the charge  
 is pending against me.

  
 Defendant

  
 Defense Counsel

1-15-09  
 Date

ORIGINAL

## UNITED STATES DISTRICT COURT

FILED IN OPEN COURT  
U.S.D.C. Atlanta

NORTHERN

District of

GEORGIA

UNITED STATES OF AMERICA

JAN 15 2009

V.

SHANZENG CHEN

Defendant

## ORDER OF DETENTION PENDING TRIAL

Case

1:09-MJ-38-AJB

JAMES N. HATTEN, Clerk

By: 

Deputy Clerk

In accordance with the Bail Reform Act, 18 U.S.C. § 3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending trial in this case.

## Part I—Findings of Fact

- ☐ (1) The defendant is charged with an offense described in 18 U.S.C. § 3142(f)(1) and has been convicted of a ☐ federal offense ☐ state or local offense that would have been a federal offense if a circumstance giving rise to federal jurisdiction had existed that is
- ☐ a crime of violence as defined in 18 U.S.C. § 3156(a)(4).
- ☐ an offense for which the maximum sentence is life imprisonment or death.
- ☐ an offense for which a maximum term of imprisonment of ten years or more is prescribed in \_\_\_\_\_.
- ☐ a felony that was committed after the defendant had been convicted of two or more prior federal offenses described in 18 U.S.C. § 3142(f)(1)(A)-(C), or comparable state or local offenses.
- ☐ (2) The offense described in finding (1) was committed while the defendant was on release pending trial for a federal, state or local offense.
- ☐ (3) A period of not more than five years has elapsed since the ☐ date of conviction ☐ release of the defendant from imprisonment for the offense described in finding (1).
- ☐ (4) Findings Nos. (1), (2) and (3) establish a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of (an) other person(s) and the community. I further find that the defendant has not rebutted this presumption.

## Alternative Findings (A)

- ☐ (1) There is probable cause to believe that the defendant has committed an offense ☐ for which a maximum term of imprisonment of ten years or more is prescribed in \_\_\_\_\_ ☐ under 18 U.S.C. § 924(c).
- ☐ (2) The defendant has not rebutted the presumption established by finding 1 that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

## Alternative Findings (B)

- ☐ (1) There is a serious risk that the defendant will not appear.
- ☐ (2) There is a serious risk that the defendant will endanger the safety of another person or the community.

## Part II—Written Statement of Reasons for Detention

I find that the credible testimony and information submitted at the hearing establishes by ☒ clear and convincing evidence ☐ a preponderance of the evidence that

Probable cause exists that I entered and remained in US via false/forged/improperly issued documents. He is subject to an immigration detainer. He has not established lawful ties to community.

## Part III—Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

1/15/2009

Date

Signature of Judicial Officer

ALAN J. BAVERMAN, U. S. MAGISTRATE JUDGE

Name and Title of Judicial Officer

\*Insert as applicable: (a) Controlled Substances Act (21 U.S.C. § 801 *et seq.*); (b) Controlled Substances Import and Export Act (21 U.S.C. § 951 *et seq.*); or (c) Section 1 of Act of Sept. 15, 1980 (21 U.S.C. § 955a).



<h1 style="margin: 0;">ORIGINAL UNITED STATES DISTRICT COURT</h1>		FILED IN OPEN COURT JAN 16 2009 Atlanta	
NORTHERN District of		GEORGIA	
UNITED STATES OF AMERICA V. SHANZENG CHEN		<b>COMMITMENT TO ANOTHER DISTRICT</b> JAN 15 2009 JAMES N. HATTEN, Clerk By <i>[Signature]</i> Deputy Clerk	
DOCKET NUMBER		MAGISTRATE JUDGE CASE NUMBER	
District of Arrest NDGA	District of Offense WDNC	District of Arrest 1:09-MJ-38-AJB	District of Offense 3:02CR233-FDW-22
CHARGES AGAINST THE DEFENDANT ARE BASED UPON AN <input checked="" type="checkbox"/> Indictment <input type="checkbox"/> Information <input type="checkbox"/> Complaint <input type="checkbox"/> Other (specify)		ATTEST: A TRUE COPY CERTIFIED THIS	
charging a violation of    18    U.S.C. § 371.F			
DISTRICT OF OFFENSE WESTERN DISTRICT OF NORTH CAROLINA		JAN 16 2009	
DESCRIPTION OF CHARGES: CONSPIRACY TO DEFRAUD THE UNITED STATES		James N. Hatten, Clerk By: <i>[Signature]</i> Deputy Clerk	
CURRENT BOND STATUS:			
<input type="checkbox"/> Bail fixed at                      and conditions were not met <input checked="" type="checkbox"/> Government moved for detention and defendant detained after hearing in District of Arrest <input type="checkbox"/> Government moved for detention and defendant detained pending detention hearing in District of Offense <input type="checkbox"/> Other (specify)			
Representation: <input type="checkbox"/> Retained Own Counsel <input checked="" type="checkbox"/> Federal Defender Organization <input type="checkbox"/> CJA Attorney <input type="checkbox"/> None			
Interpreter Required? <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Yes    Language <u>Chinese</u>			
TO: THE UNITED STATES MARSHAL You are hereby commanded to take custody of the above named witness and to transport that witness with a certified copy of this commitment forthwith to the district of offense as specified above and there deliver the witness to the United States Marshal for that District or to some other officer authorized to receive the witness. <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="text-align: center;"> <u>1/15/2009</u>              Date           </div> <div style="text-align: center;"> <u><i>[Signature]</i></u>              United States Judge or Magistrate Judge           </div> </div>			
<b>RETURN</b>			
This commitment was received and executed as			
DATE COMMITMENT ORDER RECEIVED		PLACE OF COMMITMENT	
DATE		(BY) DEPUTY MARSHAL	